

Washington, DC -- U.S. Reps. Michael A. Arcuri (D-NY) and John M. McHugh (R-NY) sent a letter to new Department of the Interior Secretary Ken Salazar yesterday requesting a meeting on the ongoing Oneida Land into Trust process to brief the Secretary and Interior officials on the local impact of the Oneida trust application.

“The federal trust process was neither intended as a means for resolving Indian land claims, nor to create de facto reservations,” **Arcuri and McHugh wrote**. “Litigation related to these claims has crippled Central New York for over a generation. Of grave concern to local residents is the fact that there is no end to the trust process, and as soon as one application ends, the next could start. We share that concern, particularly as this process could otherwise continue indefinitely and be abused to remove literally thousands of acres in New York from state and local tax rolls.”

In their letter to Salazar, the Congressmen detailed the progression of the land in trust process to date and their serious concerns with the perpetual litigation arising from that process. Congressmen Arcuri and McHugh requested a meeting with Secretary Salazar to discuss the process in greater detail and share their hope for a solution that values and includes all stakeholders and finally resolves all these issues.

“We support locally arrived upon, global, negotiated settlements that will fairly resolve these land claims in a way that provides a finite amount of sovereign land for the tribes, a permanent revenue stream to assist counties and school districts in the provision of services to a tribe’s land and its members, and a clear resolution of state regulatory and tax jurisdiction over non-trust parcels owned by tribes,” **the letter continues**. “Such a settlement would need to be approved by the tribe, the State of New York and, ultimately, passed by Congress and signed into law by the President.”

Below is a copy of the letter Arcuri and McHugh sent to Secretary Salazar:

The Honorable Ken Salazar, Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

Congratulations on your recent confirmation as Secretary of the U.S. Department of Interior (DOI). We are privileged to represent New York's upstate region, which, like many areas of the country, faces a number of issues that pose potential economic hardship without intervention or support. Thus, given its great importance to our constituents and New York State, we write to bring one of these issues to your attention, and ask for your thoughtful attention and assistance in the coming months.

Upstate New York includes land that is the subject of claims by several Native American tribes, including the Oneida Indian Nation of New York (OIN) and the Cayuga Nation of New York. For decades, both tribes have been pursuing litigation challenging the status of state, county, town and village land that was once part of historical tribal lands. The problem stems from the fact that these lands were "purchased" by the State of New York without Federal approval, in violation of the Trade and Intercourse Act of 1790. Additionally, OIN operates the Turning Stone Resort and Casino in Verona, NY, which has created even more issues. Specifically, the casino's operating agreement does not require any portion of its substantial revenue to be shared with the State of New York, or the counties in which OIN has purchased land. The large amount of revenue generated by the casino allows OIN to continue purchasing additional properties throughout the land claim area.

As you may know, based on the Supreme Court's ruling in *City of Sherrill v. Oneida Indian Nation of New York* (2005), OIN applied to have numerous parcels of land that it owns throughout the claim area (totaling 17,000 acres) taken into trust by DOI. In May 2008, DOI issued a Record of Decision (ROD) on OIN's application that would take 13,086 acres, including many non-adjacent parcels in Oneida and Madison counties, and the land on which the casino had been built, into trust. Several groups, including the State of New York and the Counties, have challenged the ROD in Federal District Court. The Cayuga Nation of New York, which currently has no sovereign land – reservation or trust – also has a land-into-trust application pending before DOI, for which DOI is rumored to be close to issuing a draft environmental impact statement.

The federal trust process was neither intended as a means for resolving Indian land claims, nor to create de facto reservations. Litigation related to these claims has crippled Central New York for over a generation. Of grave concern to local residents is the fact that there is no end to the trust process, and as soon as one application ends, the next could start. We share that

concern, particularly as this process could otherwise continue indefinitely and be abused to remove literally thousands of acres in New York from state and local tax rolls.

Thus, we support locally arrived upon, global, negotiated settlements that will fairly resolve these land claims in a way that provides a finite amount of sovereign land for the tribes, a permanent revenue stream to assist counties and school districts in the provision of services to a tribe's land and its members, and a clear resolution of state regulatory and tax jurisdiction over non-trust parcels owned by tribes. Such a settlement would need to be approved by the tribe, the State of New York and, ultimately, passed by Congress and signed into law by the President.

During the prior Administration, DOI officials were consumed only with work on OIN's trust application and no efforts were made to convene negotiations or to stimulate discussions between the parties that might have yielded some agreement on outstanding issues. We find this unfortunate as these types of negotiations have proved very successful in other places throughout the country. As a result, meaningful time was lost and all that remains is another round of litigation – over the ROD – and further entrenchment of stakeholder positions. We firmly believe a role exists in the settlement process for DOI to become a leader, or at the minimum, a cooperative partner in helping the parties resolve and address their differences and issues.

New York is the only state in the East where tribal land claims of this sort remain unresolved. One contributing factor in this is the current fiscal crisis facing New York State – the state simply lacks the finances to offer a significant offer as a component of a potential settlement. Additionally, a DOI directive issued by former-Secretary Kempthorne in January 2008 further limited New York State's options by establishing a Department policy that prohibited "off-reservation gaming." This directive limits the authority of New York State to offer land it owns, which may be favorable and suitable to gaming development, as a negotiable asset. At the same time, it denies tribes the opportunities to achieve economic self-sufficiency by arbitrarily barring development on what may be the most desirable land. We would hope that you strongly consider revoking this directive so that states and tribes can negotiate in as free and flexible a manner as possible.

We respectfully request a meeting with you and the appropriate members of your staff to discuss these issues in the coming weeks. Thank you for your prompt attention and consideration of this matter. We look forward to working together with you on this and other issues in the coming years. To arrange a mutually agreeable time for this meeting, you may contact Mark Cornell in Representative Arcuri's office at 202-225-3665 and Donna Bell in

Representative McHugh's office at 202-225-4611.

Sincerely,

MICHAEL A. ARCURI JOHN M. McHUGH
Member of Congress Member of Congress

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